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| 10/622,536 | 07/21/2003 | Bernard S. Sain | 046504-0111 | 3879 |

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FOLEY AND LARDNER
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

EXAMINER

GUTMAN, HILARY L

| ART UNIT | PAPER NUMBER |
|----------|--------------|
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3612

DATE MAILED: 10/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/622,536

Applicant(s)

SAIN, BERNARD S.

Examiner

Hilary Gutman

Art Unit

3612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 August 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17, 19, 20 and 22 is/are rejected.
- 7) ☒ Claim(s) 18 and 21 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 July 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Information Disclosure Statement

1. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered. The IDS previously filed does not include references 6,390,743 and 6,460,227 mentioned in the specification and unless the references have been cited by the examiner, they have not been considered.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the movable and selectively positionable connection device of claim 12 must be shown or the feature(s) canceled from the claim(s). If the feature is conventional, the applicant should state this in a response to this action. No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Objections

3. Claim 3 is objected to because of the following informalities: on line 3, "lower" should be "underside". Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 14-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 14 recites the limitation "the at least one adjacent container" in line 6. There is insufficient antecedent basis for this limitation in the claim.

Claim 15 recites the limitation "the at least one adjacent container" in line 4. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-3, 5-12, 17, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Betjemann in view of Glassmeyer.

Betjemann (3,386,600) discloses a shipping platform (Figure 8) comprising: an elongated platform (Figure 8); and adjustable length pillars 23, 24, 25, 26 provided on either side and at both ends of the platform, the laterally opposed pairs of the adjustable pillars each having an upper cross-member 27, 28, 29, 30 interconnecting the upper ends thereof. The shipping platform is configured such that spaces between the pillars and between the upper ends of the

Art Unit: 3612

pillars and the platform are open and free of structure which impedes passage of cargo between the pairs of laterally opposed adjustable length pillars onto the platform.

With regard to claim 2, the platform is provided with underside cross-members (best seen in Figures 3 and 5) which are rigidly connected with the platform and which extend parallel with the upper cross-members 29, 30.

With regard to claim 3, the upper and underside cross-members are provided with opening (Figure 3) by which the upper and underside cross-members are “engageable” with connection rails used to interconnect containers.

With regard to claim 5, the upper and underside cross-members are provided with apertures (Figure 3) which are so sized and located as to allow releaseable interconnection with the connection rails they are engageable with.

With regard to claim 6, the platform is flat and adapted to have vehicles (Figure 7) and other oversized cargo (Figure 8) thereon.

With regard to claim 7, the adjustable length pillars each comprise a base member (23A) as seen in Figure 4 rigidly connected with the platform and a telescopic member (23B) which is slidably disposed with the base member.

With regard to claim 9, the adjustable length pillars each further comprise a locking device 32 which selectively locks the telescopic member in one of a plurality of positions relative to the base member.

With regard to claim 10, each locking device 32 comprises a locking pin which is disposed through apertures which are formed in the telescopic member and the base member of the adjustable length pillars.

Art Unit: 3612

With regard to claim 11, a connection device 37 (Figure 5) is provided on the platform and adapted to facilitate connect of cargo thereto.

With regard to claim 12, the connection device 37 is movable and selectively positionable on the platform.

With regard to claim 17, the adjustable length pillars are arranged on the platform so that a distance between the adjustable length pillars and the length of the platform are different and such that the adjustable length pillars are located inboard of longitudinally opposed ends of the platform.

With regard to claim 19, the spaces between the pillars and between the upper ends of the pillars and the platform are constantly open and free of structure which impedes passage of cargo between the pairs of laterally opposed adjustable length pillars onto the platform.

Betjemann lacks laterally extending upper cross-members being respectively movable with the upper ends of the laterally opposed pair of adjustable length pillars when the pillars are adjusted in length.

Glassmeyer (4,151,925) teaches a shipping platform comprising: a platform 12; and adjustable length pillars 46 provided at either side and at both ends of the platform, the adjustable pillars each having an upper cross-member 48, 50, 72 interconnecting the upper ends thereof. With regard to claim 8, the upper cross-members interconnect upper ends of a pair of the telescopic members (as seen in Figure 3).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided upper cross-members as taught by Glassmeyer that interconnect

Art Unit: 3612

upper ends of the telescopic members of Betjemann and are respectively movable with the pillars of Betjemann in order to provide additional strength and rigidity to the pillars as they move.

8. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Betjemann, as modified, and as applied to claim 3 above, and further in view of Sain et al. (6,027,291).

Betjemann, as modified, lacks the connection rails themselves wherein the connection rails engage the containers in a side-by-side configuration.

Sain et al. '291 teach a conventional connection rails engaging stacked containers in a side-by-side configuration.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided connection rails as taught by Sain et al. upon the platforms of Betjemann, as modified, in order to connect a plurality of containers in a side-by-side configuration and allow for the vertical stacking of containers of different dimensions.

9. Claims 13-16, 20, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Betjemann in view of Glassmeyer and Sain et al. (6,027,291).

For claim 13, Betjemann discloses a shipping platform arrangement comprising: a shipping platform comprising: a platform 21, 22; and adjustable length pillars 23-26 provided at either side and at both ends of the platform, the adjustable length pillars each having an upper cross-member 27-30 interconnecting the upper ends thereof.

With regard to claim 20, the adjustable length pillars are arranged on the platform so that a distance between the adjustable length pillars and the length of the platform are different and

such that the adjustable length pillars are located inboard of longitudinally opposed ends of the platform.

With regard to claim 22, the spaces between the pillars and between the upper ends of the pillars and the platform are constantly open and free of structure which impedes passage of cargo between the pairs of laterally opposed adjustable length pillars onto the platform.

Betjemann lacks laterally extending upper cross-members being respectively movable with the upper ends of the pillars when the pillars are adjusted in length.

Glassmeyer (4,151,925) teaches a shipping platform comprising: a platform 12; and adjustable length pillars 46 provided at either side and at both ends of the platform, the adjustable pillars each having an upper cross-member 48, 50, 72 interconnecting the upper ends thereof.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided upper cross-members as taught by Glassmeyer that are respectively movable with the pillars of Betjemann in order to provide additional strength and rigidity to the pillars as they move.

Betjemann, as modified, lacks first connection rails which are disposed over and connectable to the upper cross-members and which are connectable to at least one container which is disposed adjacent the shipping platform. Additionally, Betjemann, as modified, lacks first connection devices which interconnect the first connection rails to the upper cross-members and to an upper side of at least one adjacent container.

Sain et al. teach a shipping platform arrangement comprising: a shipping platform (inherent) upon which a plurality of shipping containers are disposed; each shipping container

Art Unit: 3612

having upper and lower surfaces; and first connection rails 10, 10' which are disposed over and connectable to the upper surfaces, the first connection rails being connectable to at least one container which is disposed adjacent the shipping platform. Additionally, Sain et al. teach the lower surfaces of the container being fixed at a lower side thereof, the lower surfaces being parallel to the upper surfaces, and wherein the connection rails further comprise: first connection devices 24 which interconnect the first connection rails to the upper surfaces and to an upper side of the at least one adjacent container. Further, second connection rails 10, 10' are disposed under the lower surfaces and interconnected thereto by second connection devices 24 which connect the second connection rails to lower sides of the at least one adjacent container. The first and second connection devices 24 comprise twist locks.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided first and second connection rails and first and second connection devices as taught by Sain et al. upon the shipping platform of Betjemann, as modified, in order to securely interconnect a plurality of the shipping platforms together for shipment thereof.

Allowable Subject Matter

10. Claims 18 and 21 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

11. Applicant's arguments with respect to claims 1-16 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hilary Gutman whose telephone number is 703-305-0496.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Dayoan can be reached on 703-308-3102. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3612

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

14. Any response to this final action should be mailed to:

Box AF

Assistant Commissioner for Patents

Washington, D.C. 20231

or faxed to:

(703) 872-9327, (for formal communications; please mark "EXPEDITED
PROCEDURE")

or:

(703) 746-3515, (for informal or draft communications, please clearly label
"PROPOSED" or "DRAFT").



10/15/04

D. GLENN DAYOAN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600